



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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7-5-03
[Signature]

In Re Application of:
Bret BERNER et al.

Confirmation No. 5481

Serial No. 10/024,932

Group Art Unit: 1617

Filing Date: December 18, 2001

Examiner: Edward J. WEBMAN

Title: GASTRIC RETENTIVE ORAL DOSAGE FORM WITH RESTRICTED DRUG
RELEASE IN THE LOWER GASTROINTESTINAL TRACT

RESPONSE TO RESTRICTION REQUIREMENT AND SPECIES ELECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper responds to the Restriction Requirement and Species Election mailed from the Office on May 23, 2003.

RESTRICTION REQUIREMENT:

The Examiner is requiring restriction of the application between the following two groups of claims:

- (I) claims 1-37, directed to a composition; and
- (II) claims 38-61, directed to a method of using.

In response to the requirement for restriction, applicants elect the composition claims of Group I, claims 1-37, without traverse. With this election, applicants are expressly reserving the right under 35 USC § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application.

SPECIES ELECTION

With the election of the claims of Group I, the Examiner is also requiring election of the following species:

1. A single disclosed polymer from claim 21-24;
2. A single disclosed active agent from claims 26-30;
3. A dosage form where the active agent is either not in a vesicle (claim 1) or within a vesicle (claims 1 and 31) and for those dosage forms in a vesicle, a single vesicle of claims 32-34;
4. A dosage form that is either a tablet (claims 1 and 36) or a capsule (claims 1 and 37).

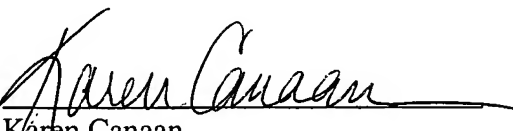
In response to the species election, applicants elect the following species (the claims reading on the elected species are indicated parenthetically):

1. poly(ethylene oxide) as the polymer (claims 1 and 21-25);
2. ciprofloxacin as the active agent (claims 1, 17-20, 26, and 27);
3. a dosage form where the active agent is not in a vesicle (claims 1-16); and
4. a tablet as the dosage form (claims 1 and 36).

This species election is made with the understanding that the elected species are for purposes of initial examination only and that once a generic claim is found allowable, the nonelected species will be subject to examination.

If the Examiner in initiating search and examination has any questions concerning the application, he is welcome to contact the undersigned attorney by phone at 650-330-4913 or by e-mail at canaan@reedpatent.com.

Respectfully submitted,

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